

## MEMORANDUM

TO: All Chapter 13 Practitioners

FROM: Judge Pat E. Morgenstern-Clarren and Yvonne Wood, Deputy Clerk in Charge of the Cleveland Office

DATE: January 13, 1997

RE: Processing of Orders in Chapter 13 cases

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As you know, there are many occasions where counsel submits a proposed order to the court following a hearing or based on an uncontested motion. The goal of the Clerk's office is to process these orders promptly, but at times the proposed orders are returned to counsel because they do not reflect the relief granted on the docket or they do not conform to standard procedures. In light of questions which have been raised on this issue, we thought it would be helpful, particularly for practitioners whose Chapter 13 practice is sporadic, to identify a few of the more common situations where proposed orders are sent back for revisions:

### **1. Confirmation Orders with Incorrect Attachments**

*The standard confirmation order should have attached to it whatever version of the plan was confirmed so that the order, read as a whole, accurately informs the reader as to the terms of the confirmed plan. When confirmation orders are returned, it is generally because the attachment does not match the confirmation docket entry. For example:*

a. If the docket entry reads "plan confirmed as interlineated", the attachment should be the plan with the handwritten changes as agreed to either in court or at the 341 meeting of creditors. (Please do not re-type the plan to incorporate the handwritten changes because the case administrators have no way of telling whether the re-typed version accurately reflects the interlineation agreed to by the parties.)

b. If a motion to modify is granted, the attachment should be the modified plan. If a motion to modify is granted as interlineated in court, the copy with interlineations is the correct attachment.

### **2. Agreed Orders**

If the docket entry reads "resolved by agreed order", then the proposed order should be signed by all parties affected by the order. These orders sometimes come in with just one signature and blanks where the other parties were to sign.

### **3. Timing of Submitting Orders**

Agreed orders may be submitted at any time. Other orders should be delivered to the Clerk's office only after the scheduled hearing date because the case administrator does not know until then whether the proposed order accurately reflects the relief granted.

### **4. Orders that are Submitted without Service Copies and Envelopes**

The long-standing practice in the Clerk's office is to require counsel submitting a proposed order to include the original *plus* a sufficient number of service copies and service envelopes that are addressed and stamped. Orders without these copies and envelopes are returned.

### **5. Orders on the Debtor or Debtor's Employer to Make Plan Payments**

Plans are funded either through wage orders placed on employers or by direct payment from the debtor. A standard form order, available from the Clerk's office, must be used for each of these alternatives.

If the debtor requests permission to make plan payments directly to the Trustee, rather than through a wage order on an employer, a letter explaining the circumstances necessitating direct pay should be submitted together with the proposed self-pay order. Self-pay orders without such a letter are returned to counsel. The certificate of service on a self-pay order should be to debtor, debtor's counsel and the Chapter 13 Trustee.

### **6. Miscellaneous**

a. Please verify that the debtor's name, the judge assigned to the case, and the case number are all listed accurately.

b. Please double-check that the order contains the appropriate terminology. Generally, motions are "granted" or "denied" while objections are "sustained" or "overruled." A number of proposed orders just say that a motion or objection is "well-taken", without including a ruling.

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We hope that these words of explanation will make the order process go more smoothly for all concerned. If you have any questions, please feel free to contact the case administrator assigned to your case or Peggy Majoros, Courtroom Deputy.